

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date: 23-11-2005

WRIT PETITION No.6681 OF 2005

BETWEEN:

Manda Satyavani.

...Petitioner

And

The Kakinada Co-operative Town Bank Limited, Rep.by its Branch
Manager and others.

...Respondents

ORDER:

The petitioner seeks to issue a writ of Mandamus, declaring the action of the first respondent bank in not following the procedure laid down in Sections 61, 62 and 71 read with Rule 49 of the A.P. Co-

operative Societies Act as illegal and arbitrary.

It is stated that the first respondent bank though registered under the Co-operative Societies Act, but it has not obtained licence from the Reserve Bank of India and not receiving any financial aid from the State Government or Central Government and it is generating its own funds independently and doing banking business and therefore, the writ against the first respondent is not maintainable. Admittedly, the third respondent is the owner of the property in question, which has been mortgaged in favour of the first respondent bank. It is stated that the petitioner is only a subsequent purchaser of the land from the third respondent.

The learned counsel appearing for the petitioner fairly submits that though the writ petition is not maintainable as held by this Court in W.P.No.7632 of 2005 by order dated 8-9-2005, but there cannot be any objection for the first respondent bank to receive money on behalf of the third respondent towards the amount due and to release the documents to the third respondent. Whether the third respondent pays or anybody pays on behalf of the third respondent, there cannot be any objection for the first respondent bank to receive the said amount. The learned counsel for the petitioner also submits that some reasonable amount may be granted for depositing the same on behalf of the third respondent.

Having regard to the facts and circumstances of the case, if the amount is paid on behalf of the third respondent within six weeks from today, no action may be taken pursuant to the mortgage till six weeks and if the entire amount is not deposited, it is open for the first respondent bank to proceed against the mortgaged property in accordance with law.

The Writ Petition is disposed of accordingly. No costs.

V.ESWARAIAH, J

Date: 23-11-2005.

Shr.